

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RICHARD LECHTHALER,	:	CIVIL ACTION NO. 1:14-CV-291
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
MOUNTAINVIEW THOROUGHBRED	:	
RACING ASSOCIATION,	:	
	:	
Defendant	:	

ORDER

AND NOW, this 30th day of July, 2015, upon consideration of the motion (Doc. 23) by Mountainview Thoroughbred Racing Association (“Mountainview”), requesting that the court strike the answer (Doc. 20) and brief (Doc. 21) filed by plaintiff Richard Lechthaler (“Lechthaler”) opposing Mountainview’s motion (Doc. 18) for judgment on the pleadings as untimely, wherein Mountainview asserts that Lechthaler’s filings violate Local Rule of Court 7.6, see L.R. 7.6 (requiring that briefs in opposition to motions other than motions for summary judgment be filed within fourteen (14) days of service of the motion), and it appearing that Mountainview filed its motion and supporting brief together as a single document on June 3, 2015, (Doc. 18), and that, also on June 3, 2015, the Clerk of Court ordered Mountainview to file its supporting brief as a separate document pursuant to the Local Rules of Court, see L.R. 5.1(h) (“Each motion and brief shall be a separate document.”), and that Mountainview complied, refiled its brief and electronically serving Lechthaler with same on June 10, 2015, and it also appearing that Lechthaler filed an answer

and opposition brief (Docs. 20-21) on June 26, 2015, and the court noting that, per Local Rule 7.6, Lechthaler's response was due on June 24, 2015, within fourteen (14) days of service of Mountainview's supporting brief,¹ but that Federal Rule of Civil Procedure 6(d) adds three (3) days to the fourteen (14) day response period when service of an opening brief is made electronically, see FED. R. CIV. P. 6(d) ("When a party . . . must act within a specified time after service and service is made under Rule 5(b)(2)(C), (D), (E), or (F), 3 days are added after the period would otherwise expire under Rule 6(a)."), extending Lechthaler's opposition brief deadline to June 29, 2015, and the court thus concluding that Lechthaler's brief, filed June 26, 2015, is timely, and further upon consideration of Mountainview's alternative request for leave to file a *nunc pro tunc* reply brief in response to Lechthaler's opposition papers, (see Doc. 23 at 5-6), it is hereby ORDERED that:

1. Mountainview's motion (Doc. 23) is GRANTED to the extent that Mountainview shall have until Wednesday, August 12, 2015, to file a reply brief in further support of its motion (Doc. 18) for judgment on the pleadings.
2. Mountainview's motion (Doc. 23) is DENIED in all other respects.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania

¹ Mountainview suggests that the operative date for calculating Lechthaler's opposition deadline may be the earlier June 3, 2015, date on which Mountainview filed its motion and brief as a single document. (Doc. 23 ¶ 10). The court rejects this supposition. Mountainview did not file a supporting brief as required by the Local Rules of Court until June 10, 2015, after it was directed to do so by the Clerk. The court thus uses the June 10, 2015, filing date to calculate Lechthaler's responsive deadline. To hold otherwise would allow Mountainview to benefit from its own violation of the Local Rules.